

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.9937 OF 2019

ORDER:

This writ petition is being disposed of at the admission stage with the consent of both parties.

This writ petition is filed seeking the following relief:

“...to issue an appropriate Writ, Order or Direction particularly one in the nature of Writ of Mandamus declaring the action of respondents in not considering the claim of the petitioner for promotion as Municipal Commissioner – Grade III, without taking into consideration of the Charge Memos vide GO Rt. 716, M.A & UD (Vig. I (2)) Dept., Dt 18.11.2017 and G.O.Rt.No.474 MA & UD (Vig. I (2)) Dept., dated 21.06.2018 and to promote the petitioner as per the DPC constituted by the respondents as illegal, arbitrary, unconstitutional, contrary to law and consequently direct the respondents to consider the claim of the petitioner for promotion to the post of Municipal Commissioner Grade – III, from the post of Manager without taking into consideration the Charge memos vide GO Rt 716, M.A & UD (Vig. I (2)) Dept., Dt 18.11.2017 and G.O.Rt.No.474 MA & UD (Vig I (2)) Dept., dated 21.06.2018 in terms of GO Ms.No.257 GAD (Ser-C) Dept., Dt 10.06.1999 and to promote the petitioner as Municipal Commissioner Grade-III on par with the Juniors in any of the vacancies of Municipal Commissioner Grade-III by following the analogy of orders passed in favour of other officers by this Hon'ble Court and/or pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

Heard Sri M.M. Ali, learned counsel appearing for the petitioner, and learned Government Pleader for Services III appearing for the respondents.

It is the case of the petitioner that though he is fully eligible and qualified to be promoted to the post of Municipal Commissioner Grade-III, his case was not considered by the respondents due to pendency of charge memos dated 18.11.2017 and 21.06.2018. The State Government has taken a policy decision *vide* G.O.Ms.No.257, dated 10.6.1999, as per which, the

competent authority shall examine each individual case as to whether the charges leveled against the employee are grave in nature or not and if the same are found to be grave in nature, such individual cannot be considered for promotion. But, the respondents have not examined the case of the petitioner for promotion to the post of Municipal Commissioner Grade – III in terms of the said G.O.

Learned counsel appearing for the petitioner submits that appropriate orders be passed directing the respondents to consider the case of the petitioner in terms of the said G.O.

Learned Government Pleader appearing for the respondents contends that the case of the petitioner will be considered for promotion strictly in accordance with G.O.Ms.No.257, dated 10.6.1999 and appropriate orders will be passed.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that ends of justice would be met if a direction is given to the respondents to consider the case of the petitioner for promotion in accordance with G.O.Ms.No.257, dated 10.6.1999.

Accordingly, the Writ Petition is disposed of directing the respondents to consider the case of the petitioner for promotion to the post of Municipal Commissioner Grade – III strictly in accordance with G.O.Ms.No.257, dated 10.6.1999 and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order. No costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J